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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,713	12/27/2001	Zhang Shao Wei	P1395	8628
24394	7590	09/20/2004	EXAMINER	
LARIVIERE, GRUBMAN & PAYNE, LLP 19 UPPER RAGSDALE DRIVE SUITE 200 MONTEREY, CA 93940			HYLTON, ROBIN ANNETTE	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 09/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/033,713

Applicant(s)

WEI, ZHANG SHAO

Examiner

Robin A. Hylton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 9, 2004 has been entered.

Drawings

2. The drawings were received on April 8, 2004. These drawings are approved by the examiner.

3. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the submitted drawings are informal. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. Claims 32-35 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the claims are rejected for the following reasons:

As a result of using "closure means", claims 32-34 fail to meet the 3-prong analysis of a "means plus function" claim set forth in the "Supplemental Examination Guidelines" effective June 21, 2000 and published in the Official Gazette on July 25, 2000. If applicant desires to invoke 35 USC 112, 6th paragraph, applicant must either modify the claim to include the phrase

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“means for” or show that even though the phrase “means for” is not used, the claim limitation is written as a function to be performed and does not recite sufficient structure, material, or acts which would preclude application of 35 USC 112, 6th paragraph.

Dependent claims not specifically mentioned are rejected as depending from rejected base claims since they inherently contain the same deficiencies therein.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perali et al (US 4,914,762) in view of Marrone, II (US 5,007,449).

It is noted that the provisions of 35 USC 112, 6th paragraph are not invoked as applicant has included structure in the description of the means.

Perali teaches a flexible container 1 comprising at least two flexible members 2,3 forming a chamber therebetween for containing fluids, said flexible members have a modulus of elasticity conducive to liquid containment and gaseous inflation (see col. 2, lines 33-35), and flexible closure means 7 coupled to at least one of said flexible members, having a hollow cylinder having an open end and a sealed end, said sealed end extending into the chamber for selective flow restriction and for repetitive filling and expelling fluids from said chamber in response to squeezing force selectively applied to said closure means, said closure means further including a stopper means for sealing said open end of said hollow cylinder. Perali does not teach a transfigurable slit disposed near the sealed end of the hollow cylinder.

Marrone teaches a flexible container having a closure means having a hollow cylinder having a open end and a sealed end, said sealed end extending into the chamber, and a transfigurable slit disposed near the sealed end for selective flow restriction and for repetitive

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filling and expelling fluids from said chamber in response to squeezing force selectively applied to said closure means, said closure means further including a stopper means for sealing said open end of said hollow cylinder with a transfigurable slit 4 disposed near the sealed end 5.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a transfigurable slit disposed near the sealed end of a hollow cylinder. Doing so prevents deflating of the container or loss of contents should the cap be removed accidentally or intentionally wherein no pressure is applied to the valve.

7. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perali in view of Marrone and Greywacke (US 3,368,560).

It is noted that the provisions of 35 USC 112, 6th paragraph are not invoked as applicant has included structure in the description of the means.

Perali teaches a flexible container 1 comprising at least two flexible members 2,3 forming a chamber therebetween for containing fluids, said flexible members have a modulus of elasticity conducive to liquid containment and gaseous inflation (see col. 2, lines 33-35), and flexible closure means 7 coupled to at least one of said flexible members, having a hollow cylinder having an open end and a sealed end, said sealed end extending into the chamber for selective flow restriction and for repetitive filling and expelling fluids from said chamber in response to squeezing force selectively applied to said closure means, said closure means further including a stopper means for sealing said open end of said hollow cylinder. Perali does not teach a transfigurable slit disposed near the sealed end of the hollow cylinder.

Marrone teaches a flexible container having a closure means having a hollow cylinder having a open end and a sealed end, said sealed end extending into the chamber, and a transfigurable slit 4 disposed near the sealed end 5, for selective flow restriction, and for repetitive filling and expelling fluids from said chamber in response to squeezing force

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selectively applied to said closure means; said closure means further including a stopper means 1 for sealing said open end of said hollow cylinder.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a transfigurable slit disposed near the sealed end of a hollow cylinder. Doing so prevents deflating of the container or loss of contents should the cap be removed accidentally or intentionally wherein no pressure is applied to the valve.

Additionally, Perali does not teach hanging means on the flexible container.

Gewecke teaches a flexible container having a means for hanging the container attached to one of the flexible members.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a hanging means to the container of Perali as taught by Gewecke. Doing so allows for conveniently hanging the container for display and/or drying by allowing excess fluid to drain toward the closure means.

8. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perali in view of Marrone and Jaw (US 5,343,889).

It is noted that the provisions of 35 USC 112, 6th paragraph are not invoked as applicant has included structure in the description of the means.

Perali teaches a flexible bag body 1 and a flexible closure means 7 having a valve cylinder having an open end and a sealed end and a plug for sealing said open end of the cylinder. Perali does not teach a transfigurable slit disposed near the sealed end of the cylinder nor a flared end into which the cylinder is retractable.

Marrone teaches a flexible container having a closure means having a hollow cylinder having a open end and a sealed end, said sealed end extending into the chamber, and a transfigurable slit disposed near the sealed end, for selective flow restriction, and for repetitive

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filling and expelling fluids from said chamber in response to squeezing force selectively applied to said closure means, said closure means further including a stopper means for sealing said open end of said hollow cylinder with a transfigurable slit 4 disposed near the sealed end 5.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a transfigurable slit disposed near the sealed end of a hollow cylinder. Doing so prevents deflating of the container or loss of contents should the cap be removed accidentally or intentionally wherein no pressure is applied to the valve.

Jaw teaches it is known to provide a closure means having a flared end attached to a bag body with a retractable cylinder extended into the flared end.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further apply the teaching of a flared end attached to the bag body with a retractable cylinder extendable into the flared end. Doing so allows the cylinder to be moved inwardly toward the center of the bag to prevent damage to the parts of the closure means.

9. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 34 above, and further in view of Gewecke.

Perali as modified does not teach hanging means on the flexible container.

Gewecke teaches a flexible container having a means for hanging the container attached to one of the flexible members.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a hanging means to the container of Perali as taught by Gewecke. Doing so allows for conveniently hanging the container for display and/or drying by allowing excess fluid to drain toward the closure means.

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Response to Arguments

10. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various prior art closures teaching features similar to those disclosed and/or claimed are cited for their disclosures.

12. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703) 872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

13. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number (703) 872-9306 on the date shown below.

Typed or printed name of person signing this certificate

Signature_____

Date_____

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (703) 308-1208. The examiner

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works a part-time schedule and can normally be reached on Monday - Friday from 9:00 a.m. to 1:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on (703) 308-2572.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Errica Miller at (703) 306-4005.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148 or may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RAH
September 16, 2004


Robin A. Hylton
Primary Examiner
GAU 3727